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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,189	11/10/2003	Melody A. Smith	SMITH-43188	4663

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EXAMINER

SUHOL, DMITRY

ART UNIT PAPER NUMBER

3714

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,189

Applicant(s)

SMITH, MELODY A.

Examiner

Dmitry Suhol

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/10/2003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I, claims 1-13 in the reply filed on March 21st, 2005 is acknowledged. The traversal is on the ground(s) that an additional search between the two groups would not be necessary and therefore there would be no serious burden on the examiner. This is not found persuasive because the guidelines set forth by section 803 of the MPEP clearly state:

For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.

In this case the examiner has clearly explained that the groups are related as a product and method of use and are clearly shown to be distinct (see office action mailed on 1/25/2005). The examiner has further indicated a separate status in the art as shown by their different classification for each group, as well as explaining why different searches would be required for the various groups.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, there is no antecedent basis for "the internal pouch aperture" since there are two apertures claimed both of which extend into the internal pouch.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcinko et al '981 in view of Wiedemann '861. Marcinko discloses a stuffed animal doll containing most of the claimed elements including, a doll having a compressible portion defining an internal pouch (stuffed body portion 12 defining internal cavity 18) as required by claim 1, a first aperture formed in the doll for selectively accessing the internal pouch (opening 14) as required by claims 1 and 10, a liquid container removably disposed within the internal pouch and having a nozzle extending therefrom (containers 24 having nozzles, read onto the combination of elements 30 and 32) as required by claims 1 and 10, and a second aperture formed in a groin area of the doll and configured to accept the nozzle therethrough (aperture 20

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which holds the last bottle toward the tail section of the stuffed animal is shown in figure 1 and 2 to be in the groin area) as required by claims 1 and 10, whereby the liquid container is at least partially filled with liquid (feeding liquid is inherent with the device since without the liquid the device would not function as intended), disposed within the internal pouch such that the nozzle thereof extends through the second aperture of the doll (figure 1) as required by claims 1 and 10. Fasteners for selectively closing the internal pouch aperture, as required by claims 2 and 10, are described at col. 2, lines 25-30. The nozzle including a membrane having an aperture therein, as required by claims 5 and 10, is read onto the nipple portion 32 which inherently has an aperture. The doll being comprised of stuffed fabric, as required by claims 9 and 10, is described in col. 1, lines 56-57 as a "stuffed animal" device (where it is commonly known that a stuffed animal is comprised of stuffed fabric).

Marcinko fails to explicitly teach that her liquid containers 24 are resiliently compressible as required by claims 1, 4 and 10. However, Wiedemann discloses a feeding bottle, like the ones used by Marcinko, which teaches that it is known to manufacture such bottles from a material that is resiliently compressible for the purpose of expelling trapped air (figures 3-5 and col. 2, lines 9-26). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have provided the stuffed animal of Marcinko with a compressible liquid container, as taught by Wiedemann for the purpose of allowing the user to expel unwanted trapped air from the container.

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Claims 6, 7, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcinko et al '981 and Wiedemann '861, as stated above, and further in view of Otto et al '353. Although Marcinko, as modified by Wiedemann, discloses all the elements of the claims, as stated above, the reference fails to teach a cap pivotally attached to the nozzle, as required by claims 6 and 10, where the cap is snap-fit to the nozzle as required by claims 7 and 12. However, Otto discloses a liquid container, like that of Marcinko and Wiedemann, which teaches that it is known to manufacture such containers with a cap that is pivotally attached to the nozzle portion of the bottle (figures 1-3) and is snap fit thereto (col. 3, lines 17-18) for the purpose of keeping the nipple protected from diseases and dirt while at the same time preventing the cap from becoming lost.

Claims 1-4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer '448 in view of Nassau '675 and Marcinko et al '981. Scherman discloses a doll containing most of the claimed elements including, a doll having a compressible portion defining an internal pouch (stuffed body portion 11 defining internal cavity containing member 25) as required by claim 1, a liquid container removably disposed within the internal pouch and having a nozzle extending therefrom (container 25 having a nozzle, read onto the combination of the lower portion of member 25 and member 27, where the container is considered to be removable since it is only held/fastened by wire members 26 and 31) as required by claim 1, and a second aperture formed in a groin area of the doll and configured to accept the nozzle

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therethrough (aperture defined by wire member 31) as required by claim 1, whereby the liquid container is at least partially filled with liquid (liquid received into container 25), disposed within the internal pouch such that the nozzle thereof extends through the second aperture of the doll (figure 1) as required by claim 1 so that urination may be simulated. The doll being unisex, as required by claim 3, is shown in figure 1, since the doll is not identifiable as either a male or female (i.e. it has no male or female characteristics). The doll comprising stuffed fabric, as required by claim 9, is shown in figure 1.

Schaeffer fails to explicitly teach that his liquid container 25 is resiliently compressible as required by claims 1 and 4, a first aperture formed in the doll for selectively accessing the internal pouch (as required by claim 1) including fasteners for closure thereof as required by claim 2. However, Nassau discloses a stuffed figure (see figure) having an internal container holding liquid (container 1), which teaches that it is known to manufacture such container from a resiliently compressible material (lines 21-23, 44-49 and 55-57) for the purpose of expelling liquid at a desired time. Marcinko discloses a stuffed figure having an internal container for dispelling liquid, which teaches that it is known to provide such a stuffed figure with an aperture (14) including fasteners (58) for the purpose of allowing access into the stuffed figure. Therefore it would have been obvious to manufacture the container of Schaeffer from a resilient compressible material for the purpose of easily expelling liquid at a desired time and pace. It would have been further obvious to provide the doll of Schaeffer with an aperture and associated fasteners for the purpose of allowing access into the stuffed doll.

Claims 5 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer '448, Nassau '675 and Marcinko et al '981, as stated above, and further in view of Murphy '200. Although Schaeffer, as modified by Nassau and Marcinko, discloses all the elements of the claims as stated above, the reference fails to teach a membrane with an aperture as required by claims 5 and 10 and a cap for covering the aperture as required by claim 10. However, Murphy discloses a doll capable of bodily functions, like that of Schaeffer, which teaches an exist portion (41) comprised of a membrane (45) having an aperture (47) as well as a cap member (43) for the purpose of providing an exit which is substantially closed after a release of user applied pressure to the doll and fully closed upon the addition of the cap. Therefore it would have been obvious to include a membrane with member 27 of Schaeffer for the purpose of providing an exit which is substantially closed after a release of user applied pressure to the doll and fully closed upon addition of the cap.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer '448, Nassau '675 and Marcinko et al '981, as stated above, and further in view of Bell '808. Although Schaeffer, as modified by Nassau and Marcinko, discloses most the elements of the claims as stated above, the reference fails to teach a diaper removably attachable to the doll as required by claim 8. However, Bell discloses a doll, capable of simulating bodily functions like the doll of Schaeffer, which teaches that it is known to provide such dolls with removable diapers (30) for the purpose of realism and fun so

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that a child user may subconsciously transfer a toilet training experience to his/her own use (col. 2, lines 31-34). Therefore it would have been obvious to provide the doll of Schaeffer, as modified by Nassau and Marcinko, with a removably attachable diaper for the purpose of added realism and fun so that a child user may subconsciously transfer a toilet training experience to his/her own use.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaeffer '448, Nassau '675, Marcinko et al '981 and Murphy '200, as stated above, and further in view of Bell '808. Although Schaeffer, as modified by Nassau, Marcinko and Murphy, discloses most the elements of the claims as stated above, the reference fails to teach a diaper removably attachable to the doll as required by claim 13.

However, Bell discloses a doll, capable of simulating bodily functions like the doll of Schaeffer, which teaches that it is known to provide such dolls with removable diapers (30) for the purpose of realism and fun so that a child user may subconsciously transfer a toilet training experience to his/her own use (col. 2, lines 31-34). Therefore it would have been obvious to provide the doll of Schaeffer, as modified by Nassau, Marcinko and Murphy, with a removably attachable diaper for the purpose of added realism and fun so that a child user may subconsciously transfer a toilet training experience to his/her own use.

Conclusion


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430.

The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dmitry Suhol
Examiner
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